

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

KING E. GREEN, JR.,

Plaintiff,

v.

PATRICIA L. CARUSO, *et al.*,

Defendants.

Case No. 2:04-CV-216

Hon. Richard Alan Enslen

ORDER

Plaintiff King E. Green, Jr. has objected to United States Magistrate Judge Timothy P. Greeley's Order of November 22, 2005. Said Order denied the issuance of an order mandating non-parties (agents of a corporation contracting with the Michigan Department of Corrections) to answer interrogatories and requests to produce propounded by Plaintiff.

Pursuant to 28 U.S.C. § 636(b)(1)(A), the review of a magistrate judge's pretrial orders is limited to whether the orders are "clearly erroneous or contrary to law." *See United States v. Raddatz*, 447 U.S. 667, 673 (1980); *Flournoy v. Marshall*, 842 F.2d 875, 876-77 (6th Cir. 1988). This standard is necessarily deferential; it does not permit reversal unless the reviewing court is left with the definite and firm conviction that an error has been made. *See United States v. Kellams*, 26 F.3d 646, 648 (6th Cir. 1994) (citing *Anderson v. Bessemer City*, 470 U.S. 564, 573-74 (1985)); *Chakales v. Comm'r of Internal Revenue*, 79 F.3d 726, 728 (8th Cir. 1996).

Plaintiff has not shown any error in the Order. While it is true that he is indigent and limited in his ability to discover facts from non-parties, this factor did not warrant applying Federal Rules of Civil Procedure 33 and 34 in contradiction to the limitations of the Rules. While Plaintiff may

seek a deposition on written questions under Rule 31, a subpoena *duces tecum* under Rule 45, and/or a subpoena to enforce the attendance of a non-party under Rule 45, Plaintiff has not requested such relief. Even assuming he had requested proper relief, he has not made a sufficient showing to justify the relief sought, nor to warrant a conclusion that the Magistrate Judge's Order was clearly erroneous.

THEREFORE, IT IS HEREBY ORDERED that Plaintiff's Objection (Dkt. No. 90) is **DENIED** and the Order (Dkt. No. 83) is **AFFIRMED**.

DATED in Kalamazoo, MI:
January 10, 2006

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
SENIOR UNITED STATES DISTRICT JUDGE